



Therefore,

The court ORDERS that the final decision of the Commissioner be, and is hereby, reversed, and that plaintiff's claim be, and is hereby, remanded to the Commissioner pursuant to the fourth sentence of 42 U.S.C. § 405(g)<sup>1</sup> for further proceedings consistent with the Magistrate Judge's findings <sup>and</sup> conclusions ~~and~~ recommendation.

SIGNED May 18, 2009.



JOHN MCBRYDE

United States District Judge

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<sup>1</sup>As explained by the Supreme Court, a remand pursuant to sentence six of § 405(g) may be ordered only where the Commissioner "requests a remand before answering the complaint, or where new, material evidence is adduced that was for good cause not presented before the agency." Shalala v. Schaefer, 509 U.S. 292, 297 n.2 (1993). Neither of those circumstances is before the court in this action.